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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/318,560	05/26/1999	PHILIP A. DAFESH	D-362	1605
7590 02/22/2005 DERRICK M REID PATENT ATTORNEY THE AEROSPACE CORPORATION P O BOX 92957 (M1/040)			EXAMINER	
			LE, AMANDA T	
			ART UNIT	PAPER NUMBER
			2634	
LOS ANGELE	s, CA 900092957		DATE MAILED: 02/22/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)	
Office Action Summany	09/318,560	DAFESH ET AL.	
Office Action Summary	Examiner	Art Unit	
The MAN INC DATE And	Amanda T Le	2634	
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the o	correspondence address	
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be ting within the statutory minimum of thirty (30) day will apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	nely filed rs will be considered timely. the mailing date of this communication. D (35 U.S.C. § 133).	
Status			
Responsive to communication(s) filed on <u>08 Octoor</u> This action is FINAL . 2b)⊠ This Since this application is in condition for alloward closed in accordance with the practice under Expression in the Expression in	action is non-final. nce except for formal matters, pro		
Disposition of Claims			
4) ⊠ Claim(s) 1-20 is/are pending in the application. 4a) Of the above claim(s) is/are withdray 5) □ Claim(s) is/are allowed. 6) ⊠ Claim(s) 1-8, 10-19 is/are rejected. 7) ⊠ Claim(s) 9 and 20 is/are objected to. 8) □ Claim(s) are subject to restriction and/or	vn from consideration.		
Application Papers			
 9) The specification is objected to by the Examine 10) The drawing(s) filed on 26 May 1999 is/are: a) Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the Ex 	☑ accepted or b)☐ objected to drawing(s) be held in abeyance. Se ion is required if the drawing(s) is ob	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).	
Priority under 35 U.S.C. § 119			
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority documents 2. Certified copies of the priority documents 3. Copies of the certified copies of the prior application from the International Bureau * See the attached detailed Office action for a list	s have been received. s have been received in Applicati ity documents have been receive (PCT Rule 17.2(a)).	on No ed in this National Stage	
Attachment(s)			
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Do 5) Notice of Informal F 6) Other:		

U.S. Patent and Trademark Office PTOL-326 (Rev. 1-04) Application/Control Number: 09/318,560

Art Unit: 2634

1. The petition under 37 C.F.R. 1.137(b) has been granted. The amendment filed on 10/08/02 has been entered. Claims 1-20 are pending.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-8, 10-19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4-9 of U.S. Patent No. 6,430,213. Although the conflicting claims are not identical, they are not patentably distinct from each other.

Regarding claims 1, 2, 4-8, 10, 11, 13, 14, 16, 17 and 19, omission of features whose functions are not needed in a particular design would have been obvious to one of ordinary skill in the art at the time of the invention.

Regarding claims 3, 12, 15, and 18, modifying the modulation system recited in the patented claims by selecting a particular range of values of the modulation index, power level or type of waveform appropriate for specific system requirements would have been obvious to one of ordinary skill in the art at the time of the invention.

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Allowable Subject Matter

4. Claims 1-8, 10-19 would be allowable if rewritten or amended to overcome the double patenting rejection, set forth in this Office action.

5. Claims 9 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: Prior art of record, taken individually or collectively, fails to disclose a modulation system comprising all the limitations as recited in the claimed invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda T Le whose telephone number is (571) 272-3052.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on (571) 272-3056. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AMANDAT. LE
PRIMARY EXAMINER